

ESTTA Tracking number: **ESTTA584517**

Filing date: **01/29/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Speculative Product Design, LLC DBA Speck Products
Granted to Date of previous extension	01/29/2014
Address	303 Bryant Street Mountain View, CA 94041 UNITED STATES
Attorney information	Margarita Wallach, Esq. McCarter & English, LLP 245 Park Avenue, 27th Floor New York, NY 10167 UNITED STATES mwallach@mccarter.com, dlynch@mccarter.com, apang@mccarter.com Phone:(212) 609-6800

Applicant Information

Application No	85602658	Publication date	10/01/2013
Opposition Filing Date	01/29/2014	Opposition Period Ends	01/29/2014
Applicant	Premier Accessory Group, L.L.C. 11-11 44th Drive Long Island City, NY 11101 NY		

Goods/Services Affected by Opposition


Class 009. First Use: 2011/04/01 First Use In Commerce: 2011/04/01
All goods and services in the class are opposed, namely: Battery chargers; Cases for mobile phones; Cell phone battery chargers; Ear buds; Headphones

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3663010	Application Date	10/22/2008
Registration Date	08/04/2009	Foreign Priority Date	NONE

Word Mark	SPECK
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2003/12/31 First Use In Commerce: 2003/12/31 Protective carrying cases for portable electronic listening devices and music players, namely, MP3 players, and for portable computers, global positioning systems (GPS devices), mobile and cellular telephones, portable media players, and personal digital assistants

U.S. Registration No.	3944335	Application Date	09/17/2010
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	SPECK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2009/01/16 First Use In Commerce: 2009/01/16 Backpacks, messenger bags, shoulder bags, tote bags, and all-purpose carrying bags		

U.S. Registration No.	3666082	Application Date	10/24/2008
Registration Date	08/11/2009	Foreign Priority Date	NONE
Word Mark	SPECK		

Design Mark	
Description of Mark	The mark consists of an asterisk between parentheses followed by the word "SPECK" in stylized letters.
Goods/Services	Class 009. First use: First Use: 2007/01/31 First Use In Commerce: 2007/01/31 Protective carrying cases for portable electronic listening devices and music players, namely, MP3 players, and for portable computers, global positioning systems (GPS devices), mobile and cellular telephones, portable media players, and personal digital assistants

U.S. Registration No.	3944336	Application Date	09/17/2010
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	SPECK		
Design Mark			
Description of Mark	The mark consists of an asterisk between parentheses followed by the word "SPECK" in stylized letters.		
Goods/Services	Class 018. First use: First Use: 2009/01/16 First Use In Commerce: 2009/01/16 Backpacks, messenger bags, shoulder bags, tote bags, and all-purpose carrying bags		

Attachments	77598150#TMSN.jpeg(bytes) 85132140#TMSN.jpeg(bytes) 77600462#TMSN.jpeg(bytes) 85132141#TMSN.jpeg(bytes) Notice of Opposition.pdf(340565 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/mw/
Name	Margarita Wallach, Esq.
Date	01/29/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application
Serial No. 85/602,658
Filed: April 19, 2012
For the mark: **SPEKTRUM**
Published: October 01, 2013

SPECULATIVE PRODUCT DESIGN, LLC, :
DBA SPECK PRODUCTS :
Opposer, :
 :
v. :
 :
PREMIER ACCESSORY GROUP, L.L.C., :
 :
Applicant. :

OPPOSITION NO. _____

Commissioner for Trademarks
United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Speculative Product Design, LLC d/b/a Speck Products (“Speck” or “Opposer”), a limited liability company organized and existing under the laws of the State of California, having its principal place of business at 303 Bryant Street, Mountain View, CA 94041 believes that it will be damaged by registration of the mark SPEKTRUM (“Applicant’s Mark”) shown in Application Serial No. 85/602,658, filed by Premier Accessory Group, L.L.C., a limited liability company organized and existing under the laws of the State of New York, having its principal

place of business at 11-11 44th Drive, Long Island City, NY 11101 (“Applicant”) on April 19, 2012 based on use since April 1, 2011 in connection with “battery chargers; cases for mobile phones; cell phone battery chargers; ear buds; and headphones” in International Class 9 (“Applicant’s Goods”). Opposer believes that it will be damaged by the registration of Applicant’s Mark and opposes the foregoing application (the “Application”) on the following grounds:

1. Opposer is the owner of the trademark SPECK which Opposer has used in connection with protective carrying cases for portable electronic listening devices and music players, namely, MP3 players, and for portable computers, global positioning systems (GPS devices), mobile and cellular telephones, portable media players, and personal digital assistants as early as December 31, 2003 (the “SPECK Mark”).

2. Opposer is the owner of the well-known trademark SPECK and other SPECK design trademarks as used in connection with cases and accessories for electronic devices.

3. Opposer owns the following trademarks (collectively with the foregoing marks, the “SPECK Marks”) and registrations on the Principal Register in the United States Patent and Trademark Office (“USPTO”):

Mark	Registration No.	Filing Date / Registration Date	Goods	Date of First Use / First Use In Commerce
SPECK	3,663,010	Oct. 22, 2008 / Aug. 04, 2009	“Protective carrying cases for portable electronic listening devices and music players, namely, MP3 players, and for portable computers, global	December 31, 2003 / December 31, 2003

Mark	Registration No.	Filing Date / Registration Date	Goods	Date of First Use / First Use In Commerce
			positioning systems (GPS devices), mobile and cellular telephones, portable media players, and personal digital assistants” in Class 9	
SPECK	3,944,335	September 17, 2010 / April 12, 2011	“Backpacks, messenger bags, shoulder bags, tote bags, and all-purpose carrying bags” in Class 18	January 16, 2009 / January 16, 2009
(*) speck	3,666,082	October 24, 2008 / August 11, 2009	“Protective carrying cases for portable electronic listening devices and music players, namely, MP3 players, and for portable computers, global positioning systems (GPS devices), mobile and cellular telephones, portable media players, and personal digital assistants” in Class 9	January 31, 2007 / January 31, 2007
(*) speck	3,944,336	September 17, 2010 / April 12, 2011	“Backpacks, messenger bags, shoulder bags, tote bags, and all-purpose carrying bags ” in Class 29	January 16, 2009 / January 16, 2009

Copies of the registration certificates printed from the USPTO website for the above referenced trademarks are attached as Exhibit A.

4. Opposer has never abandoned and has continuously used the SPECK Marks in connection with the foregoing goods prior to any date of priority that may be claimed by Applicant.

5. During its longstanding, widespread and continuous use of the SPECK Marks, Opposer has expended considerable time, effort and financial resources in advertising and publicizing the sale of goods under the SPECK Marks. The SPECK Marks are symbolic of the extensive goodwill and consumer recognition that Opposer has established through substantial and extensive expenditures of time, effort and other resources that Opposer has expended in the promotion and advertising of goods Opposer offers and sells under the SPECK Marks. As a result of the foregoing and the high quality of Opposer's goods, the public and the trade have come to recognize the goods offered in conjunction with the SPECK Marks as signifying Opposer and its goods.

6. Upon information and belief, Applicant is a limited liability company organized and existing under the laws of the State of New York, having its principal place of business at 11-11 44th Drive, Long Island City, NY 11101.

7. On April 19, 2012 Applicant filed the Application for the trademark SPEKTRUM based on use as of April 1, 2011 in connection with "battery chargers; cases for mobile phones; cell phone battery chargers; ear buds; and headphones" in International Class 9. Accordingly, the SPECK Marks cited above have priority of use and registration to Applicant's use of and application for Applicant's Mark.

8. The Application was published for opposition on October 1, 2013. Opposer has timely filed a request for extension of the deadline for opposing the Application. The current deadline to oppose the Application is January 29, 2014.

9. The trademark proposed for registration by the Applicant, namely, SPEKTRUM, is identical to and/or confusingly similar to the SPECK Marks, and is applied to goods that are identical and closely related to the goods offered and sold by Opposer under the SPECK Marks. Applicant's Mark so closely resembles Opposer's SPECK Marks as to be likely to be confused therewith and mistaken therefor. Applicant's Mark is deceptively similar to Opposer's SPECK Marks so as to cause confusion and lead to deception as to the origin of Applicant's Goods bearing the Applicant's Mark.

10. Upon information and belief, Applicant's Goods bearing Applicant's Mark will be promoted and sold or offered for sale through the same distribution channels and to the same classes of consumers.

11. If Applicant is permitted to use and register its trademark SPEKTRUM for Applicant's Goods in Class 9 as specified in its Application, there will be confusion in the trade. As a result, the Opposer will be injured and damaged by reason of the similarity between the Applicant's mark SPEKTRUM and Opposer's SPECK Marks. Consumers will associate Applicant's Goods with those of the Opposer, and mistakenly believe that such goods are provided, endorsed by, or otherwise affiliated with the Opposer.

COUNT ONE

Likelihood of Confusion

12. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 11.

13. Based on the similarities between Opposer's SPECK Marks and Applicant's Mark SPEKTRUM, and the similarity and related nature of the goods of the respective parties, Applicant's Mark so resembles Opposer's SPECK Marks, which were previously and continuously used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive consumers, with consequent injury to Opposer and to the public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

14. The public is likely to falsely associate Applicant's Goods under the SPEKTRUM mark with Opposer or with Opposer's goods, falsely believe that Applicant's Goods emanate from or are sponsored, endorsed or licensed by Opposer, or falsely believe that there is some relationship between Applicant and Opposer.

15. The granting of a trademark registration for the trademark SPEKTRUM to Applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and would violate or diminish the prior and superior rights of Opposer in its SPECK Marks.

16. Applicant's Application and the presumption of exclusivity that would arise from a registration to Applicant of the trademark SPEKTRUM are inconsistent with Opposer's prior rights in the SPECK Marks.

17. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the

Applicant's Mark and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

COUNT TWO

Falsely Suggests a Connection with Opposer

18. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 17.

19. Opposer believes it will be damaged by registration of Applicant's Mark under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that Applicant's use and registration of the subject mark will falsely suggest a connection between Applicant and Opposer to the damage of Opposer and injury to the public, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. 1052(a).

COUNT THREE

Dilution

20. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 19.

21. In view of the strength of Opposer's SPECK Marks, the duration and extent of Opposer's use and advertising of its SPECK Marks, the nationwide use of Opposer's SPECK Marks, and the degree of recognition of Opposer's SPECK Marks, Opposer's SPECK Marks have become famous. Opposer's SPECK Marks were famous prior to the Applicant's use and filing dates of the Application for Applicant's Mark.

22. Applicant's Mark is likely to cause, and will cause, dilution of the distinctive value of Opposer's SPECK Marks under Section 43(c) of the Lanham Act of 1946, as amended, 15 U.S.C. § 1125(c).

23. Opposer will be damaged if Applicant's Mark is granted registration because Applicant will obtain statutory rights in the mark SPEKTRUM in violation and derogation of the established prior rights of Opposer.

WHEREFORE, Opposer respectfully requests that said Application Serial No. 85/602,658 be rejected, that no registration be issued thereon to Applicant, that this Opposition be sustained in favor of Opposer and that the Trademark Trial and Appeal Board grant such other and further relief as it deems just and appropriate.

Payment has been provided in the requisite amount to cover the statutory filing fee for filing a Notice of Opposition. All communications should be addressed to Opposer's counsel, McCarter & English at the address stated below.

Dated: January 29, 2014

Respectfully submitted,
McCarter & English, LLP

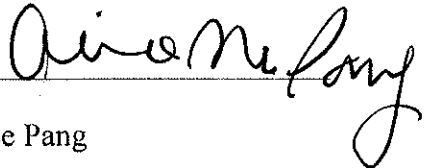
By: /s/ Margarita Wallach
Margarita Wallach
Gary Fechter
Attorneys for Opposer
Speculative Product Design, LLC
d/b/a Speck Products
245 Park Ave, 27th Floor
New York, NY 10167
Tel: (212) 609-6800
Fax: (212) 609-6921

CERTIFICATION OF SERVICE

The undersigned hereby certifies that the foregoing NOTICE OF OPPOSITION against Trademark Application Serial No. 85/602,658 for the trademark SPEKTRUM has been served on counsel for Applicant by First Class Mail at the following address:

EZRA SUTTON
LAW OFFICES OF EZRA SUTTON, PA
900 ROUTE 9 N
WOODBIDGE, NEW JERSEY 07095-1025
UNITED STATES

Dated: January 29, 2014



Alice Pang

EXHIBIT A

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 3,663,010

United States Patent and Trademark Office

Registered Aug. 4, 2009

TRADEMARK
PRINCIPAL REGISTER

SPECK

SPECULATIVE PRODUCT DESIGN, INC. (CALIFORNIA CORPORATION), DBA SPECK PRODUCTS

227 FOREST AVENUE
PALO ALTO, CA 94301

FOR: PROTECTIVE CARRYING CASES FOR PORTABLE ELECTRONIC LISTENING DEVICES AND MUSIC PLAYERS, NAMELY, MP3 PLAYERS, AND FOR PORTABLE COMPUTERS, GLOBAL POSITIONING SYSTEMS (GPS DEVICES), MOBILE AND CELLULAR TELEPHONES, PORTABLE MED-

IA PLAYERS, AND PERSONAL DIGITAL ASSISTANTS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 12-31-2003; IN COMMERCE 12-31-2003.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-598,150, FILED 10-22-2008.

AISHA SALEM, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

SPECK

Reg. No. 3,944,335

Registered Apr. 12, 2011

Int. Cl.: 18

TRADEMARK

PRINCIPAL REGISTER

SPECULATIVE PRODUCT DESIGN, INC. (CALIFORNIA CORPORATION), DBA SPECK
PRODUCTS
227 FOREST AVENUE
PALO ALTO, CA 94301

FOR: BACKPACKS, MESSENGER BAGS, SHOULDER BAGS, TOTE BAGS, AND ALL-
PURPOSE CARRYING BAGS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 1-16-2009; IN COMMERCE 1-16-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,663,010 AND 3,666,082.

SER. NO. 85-132,140, FILED 9-17-2010.

LINDA LAVACHE, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

United States Patent and Trademark Office

Reg. No. 3,666,082

Registered Aug. 11, 2009

TRADEMARK
PRINCIPAL REGISTER

(*) speck

SPECULATIVE PRODUCT DESIGN, INC. (CALIFORNIA CORPORATION), DBA SPECK PRODUCTS

227 FOREST AVENUE
PALO ALTO, CA 94301

FOR: PROTECTIVE CARRYING CASES FOR PORTABLE ELECTRONIC LISTENING DEVICES AND MUSIC PLAYERS, NAMELY, MP3 PLAYERS, AND FOR PORTABLE COMPUTERS, GLOBAL POSITIONING SYSTEMS (GPS DEVICES), MOBILE AND CELLULAR TELEPHONES, PORTABLE MED-

IA PLAYERS, AND PERSONAL DIGITAL ASSISTANTS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-31-2007; IN COMMERCE 1-31-2007.

THE MARK CONSISTS OF AN ASTERISK BETWEEN PARENTHESES FOLLOWED BY THE WORD "SPECK" IN STYLIZED LETTERS.

SER. NO. 77-600,462, FILED 10-24-2008.

AISHA SALEM, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

(*) speck

Reg. No. 3,944,336

Registered Apr. 12, 2011

Int. Cl.: 18

TRADEMARK

PRINCIPAL REGISTER

SPECULATIVE PRODUCT DESIGN, INC. (CALIFORNIA CORPORATION), DBA SPECK
PRODUCTS

227 FOREST AVENUE
PALO ALTO, CA 94301

FOR: BACKPACKS, MESSENGER BAGS, SHOULDER BAGS, TOTE BAGS, AND ALL-
PURPOSE CARRYING BAGS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 1-16-2009; IN COMMERCE 1-16-2009.

OWNER OF U.S. REG. NOS. 3,663,010 AND 3,666,082.

THE MARK CONSISTS OF AN ASTERISK BETWEEN PARENTHESES FOLLOWED BY THE
WORD "SPECK" IN STYLIZED LETTERS.

SER. NO. 85-132,141, FILED 9-17-2010.

LINDA LAVACHE, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office